



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/919,385	07/31/2001	Ronald F. Woestemeyer	PROS1100-1	3387
44654 7590 04/13/2009 SPRINKLE IP LAW GROUP 1301 W. 25TH STREET SUITE 408 AUSTIN, TX 78705				
EXAMINER				
OYEBISI, OJO O				
ART UNIT		PAPER NUMBER		
3696				
MAIL DATE		DELIVERY MODE		
04/13/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

09/919,385

**Applicant(s)**

WOESTEMEYER ET AL.

**Examiner**

OJO O. OYEBISI

**Art Unit**

3696

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 January 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- Paper No(s)/Mail Date: \_\_\_\_\_

- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date: \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

Applicant's response to the notice of non-compliance is hereby acknowledged. The examiner indicated, in the office action mailed 07/10/08, that applicant's arguments, filed on 04/09/08, with respect to claims 1-40 have been fully considered and are persuasive. The examiner further indicated that the previous art rejection has been withdrawn and that claims 1-40 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 101, and 35 U.S.C. 112, first and second paragraphs, set forth in this office action. The applicant has rewritten/amended claims 1-6, 8, 10-16, 18, 20-22, 24-29, 31-36 to overcome the rejection(s) under 35 U.S.C. 101, and 35 U.S.C. 112, first and second paragraphs. The rejection(s) under 35 U.S.C. 101, and 35 U.S.C. 112, first and second paragraphs are hereby withdrawn. However, after conducting further searches and consulting with second pair of eyes, a new prior art pertinent to the claimed subject matter was later found.

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walter et al (Walter hereinafter, US PAT: 6334110) in view of Anderson et al (Hereinafter Anderson, US PAT 5,974,396).

**Re claim 1.** Walter discloses a market analysis system comprising: a computer processor; a computer readable storage medium: a database stored on the computer readable storage medium comprising aggregate transaction data (see col.2 lines 17-24); and a software program stored on the computer readable storage medium executable by the processor to: receive a set of transaction data from an electronic exchange where market transactions are conducted electronically via the Internet (i.e., the central office has data feeds to receive data from the electronic exchange (i.e., the web), see col.4 lines 8-11); store the set of transaction data in the database (see col.2 lines 17-24); define standard pricing groups according to configuration information received at the market analysis system from one or more suppliers that participate in the electronic exchange (i.e., matching/clustering, also see "profile-based segmentation", see col.6 lines 23-45), wherein the configuration information includes standard pricing group attributes, wherein the standard pricing group attributes include a value corresponding to a delivery term, a locale, a product, a service, a customer type, a time scale, or a sales channel (see col.5 lines 1-40, especially col.5 lines 1-25);

categorize products and services from the aggregate transaction data into the standard pricing groups utilizing the standard pricing group attributes (see col.6 lines 15-40); determine at least one statistical analysis to be applied to a standard pricing group (see col.4 lines 41-42). Walter does not explicitly disclose define starting values and default parameters of the at least one statistical analysis to be applied to the standard pricing group; and apply the at least one statistical analysis to the standard pricing group to derive a set of results, wherein the set of results include a time-windowed relationship within the standard pricing group . However Anderson discloses define starting values and default parameters of the at least one statistical analysis to be applied to the standard pricing group; and apply the at least one statistical analysis to the standard pricing group to derive a set of results, wherein the set of results include a time-windowed relationship within the standard pricing group (i.e., marketing analysis tools 32 such as conventional statistical analysis software packages, e.g. SPSS, Cognos Impromptu.TM., Cognos Power Play.TM., etc., and print and direct mailing subsystem 36 are used to create value-added information targeted to particular consumers and a medium (e.g. advertisements, newsletters, coupons, etc.) for communicating that information with a consumer..... See col.6 lines 10-45. Note that statistical analysis tools can be used to set define starting values and default parameters for nay given data ). Thus it would have been obvious to one of ordinary skills to combine the teachings of Walter and Anderson to determine statistical patterns, e.g. buying habits based on specific consumer demographics, for formulating retail marketing strategies.

**Re Claim 2:** Walter does not explicitly disclose the market analysis system of Claim 1, wherein the at least one statistical analysis comprises at least one of a demand function analysis, a time series analysis, a correlation analysis, a request for quota analysis and an auction analysis. Anderson makes this disclosure (Column 10, lines 31-53). Thus it would have been obvious to one of ordinary skills to combine the teachings of Walter and Anderson to determine statistical patterns, e.g. buying habits based on specific consumer demographics, for formulating retail marketing strategies.

**Re claim 3.** Walker further discloses the market analysis system of Claim 1, wherein the software program is further executable to store the set of results from the at least one statistical analysis in an aggregate market database (see Table 1 col.5)

**Re claim 4.** Walter further discloses the market analysis system of Claim 1, wherein the software program is further executable to communicate the set of results from the at least one statistical analysis to a supplier that participates in the electronic exchange (see the abstract)

**Re claim 5.** Walter further discloses the market analysis system of Claim 4, wherein the software program is further executable to communicate the set of results from the at least one statistical analysis in a format compatible with a revenue management software program running on a computer of a supplier that participates in the electronic exchange (see the abstract and the summary of the invention)

**Re claim 6.** Walter further discloses the market analysis system of Claim 4, wherein the software program is further executable to communicate the set of results from the at

least one statistical analysis in response to a user request from a supplier that participates in the electronic exchange (see the abstract and the summary of the invention).

**Re claim 7.** Walter further discloses the market analysis system of Claim 1, wherein the software program is further executable to return a summary of the set of transaction data (see fig.4)

**Re Claim 8:** Claim 8 recites similar limitations to system claim 1 supra and thus rejected using the same art and rationale as in claim 1.

**Re claim 9.** Walter further discloses wherein the standard pricing group further comprises an aggregation of data from the set of transaction data (i.e., clustering, see col.6 lines 15-40)

**Re Claim 10:** claim 10 recites similar limitations to system claim 2 supra and thus rejected using the same art and rationale as in claim 2.

**Re Claim 11:** Walter further discloses: A communications server operable to:  
Receive a set of transaction from an electronic exchange (i.e., the central office has data feeds to receive data from the electronic exchange (i.e., the web), see col.4 lines 8-1); Communicate the set of transaction to the market analyzer (see the abstract and the summary of the invention); receive a request for the set of results from a supplier that participates in the electronic exchange; Communicate a set of results to the from the at least one statistical analysis to the supplier (see the abstract and the summary of the invention).

**Re Claim 12:** Claim 12 recites similar limitations to some of the limitations recited in claim 1 supra and thus rejected using the same art and rationale as in claim 1.

**Re Claim 13:** Claim 12 recites similar limitations to some of the limitations recited in claim 1 supra and thus rejected using the same art and rationale as in claim 1.

**Re Claim 14:** Walter further discloses wherein the configuration manager further comprises: A standard pricing group manager operable to define the standard pricing group (i.e., matching/clustering, also see "profile-based segmentation", see col.6 lines 23-45); A model manager operable to define the statistical analysis applied (i.e., matching/clustering, also see "profile-based segmentation", see col.6 lines 23-45), a supplier manager operable to manage information regarding suppliers (see fig.1 element 150).

**Re Claim 15:** Walter discloses the claimed system supra but does not explicitly disclose wherein the configuration manager is operable to define default values and standard parameters for the statistical analysis model. Official Notice is taken that it was notoriously old and well known in the art to provide default values for parameters in statistical models if no direct parameters are available. It would have been obvious to a person of ordinary skill in the art to include this step the combination and Walter and Anderson so that useful data can be generated, even in the event that all necessary parameters are not known. By providing default values the user can still be presented with an estimated predictive behavior model as opposed to nothing.

**Re Claim 16:** Walter further discloses a system further comprising: a request manager operable to: receive a request from a supplier for a set of results of the application of the



statistical analysis; retrieve the set of results from the database; and communicate the results to the supplier (see fig.4)

**Re Claim 17:** Walter discloses the claimed system wherein the request manager is further operable to return a summary of the set of transaction data to the supplier (see fig.4)

**Re Claim 18:** Walter further discloses the system wherein the request manager is further operable to communicate the set of results in a format compatible with a revenue management software program (see the abstract and the summary of the invention).

**Re Claim 19:** Walter further discloses the claimed system wherein the request manager comprises: a retrieval manager operable to retrieve the set of results from the database (see col.4 lines 15-30); and an aggregation manager operable to summarize the set of transaction data (see fig.4)

**Re Claim 20 and 21:** Walter discloses the claimed system supra but does not explicitly disclose the steps further comprising a task manger operable to schedule the application of the statistical analysis and prompt the market analyzer to apply the statistical analysis. Official Notice is taken that it was old and well known in the art at the time of invention to schedule the automatic generation of statistical models for a business at regular intervals so that appropriate tracking of progress and results can be made. It would have been obvious to a person of ordinary skill to include these steps in the combination of Walter and Anderson so that a user can have data produced, at regular intervals that can be analyzed and compared over time, without having to continuously request this information.

**Re Claims 22-30:** Further method claims would have been obvious to perform from the previously rejected system claims 1-21 and are therefore rejected using the same art and rationale.

**Re Claims 31-36:** System claims 31-36 contain essentially the same limitations as previously rejected system claims 8, 10, 18, 20, 17 and 11 respectively and are therefore rejected using the same art and rationale.

**Re claims 37-40.** Claims 37-40 recites similar limitations to claim 2 and thus rejected using the same art and rationale as in claim 2 supra .

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-40 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to OJO O. OYEBISI whose telephone number is (571)272-8298. The examiner can normally be reached on 8:30A.M-5:30P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Dixon can be reached on (571)272-6803. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/OJO O OYEBISI/  
Primary Examiner, Art Unit 3696